

# Committee on Resources

## Subcommittee on Fisheries Conservation, Wildlife and Oceans

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### Witness Testimony

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**TESTIMONY OF GARY TAYLOR, ACTING ASSISTANT DIRECTOR FOR EXTERNAL AFFAIRS, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE COMMITTEE ON RESOURCES SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS, ON H.R. 2291, AMENDING THE FISH AND WILDLIFE IMPROVEMENT ACT, AND H.R. 3647, A BILL DIRECTING THE SECRETARY OF THE INTERIOR TO MAKE CERTAIN CHANGES TO MAPS RELATING TO THE COASTAL BARRIER RESOURCES SYSTEM**

May 19, 1998

I am Gary Taylor, the Acting Assistant Director for External Affairs of the U.S. Fish and Wildlife Service. I appreciate this opportunity to testify on two of the bills before the Subcommittee: H.R. 2291, a bill to amend the Fish and Wildlife Improvement Act of 1978 to enable the Secretary of the Interior to more effectively utilize the proceeds of sales of certain items; and H.R. 3647, a bill to direct the Secretary of the Interior to make corrections to a map relating to the Coastal Barrier Resources System.

The U.S. Fish and Wildlife Service strongly supports H.R. 2291. Enactment of this bill will allow more efficient use of the proceeds received from the sale of abandoned or forfeited wildlife parts and products which are not endangered or threatened species, and do not include migratory birds or marine mammals. It would authorize all proceeds of such sales to be used for rewards and other incidental expenses as provided for in the Lacey Act Amendments of 1981 and the Endangered Species Act of 1973. The use of these funds would also be expanded to pay the costs associated with shipping, storage, and disposal of wildlife items.

The Fish and Wildlife Service is charged with enforcing several laws that protect a wide variety of fish and wildlife species. The Service has numerous outreach programs to educate the public about these laws, and Service personnel routinely answer questions and help those who seek assistance to comply with the law. Unfortunately, violations do occur. Wildlife parts and products that are the fruits of violations of Federal wildlife laws are subject to being abandoned or forfeited to the United States. The majority of these items are shipped to the National Wildlife Property Repository near Denver, Colorado, for storage and disposal. Those items not shipped to the Repository are retained at the location of the seizure and normally used for scientific and educational purposes.

Currently, there are approximately 450,000 wildlife items at the Repository, and many additional items stored in warehouses across the country. The Fish and Wildlife Improvement Act of 1978 authorizes the Secretary of the Interior to dispose of these items in a manner that he deems appropriate, including, but not limited to, loan, gift, sale, or destruction. The Service's priority is to donate or loan these wildlife items to scientific and educational organizations. Recipients include museums where they are displayed to educate the public, universities where they are used for research, and elementary schools where teachers use them to help students learn about our world's wildlife resources. A wide variety of wildlife items are provided to schools for use in their environmental education projects through the Service's "Cargo for Conservation" and "Suitcase for Survival" programs.

Between July 1, 1995, and February 1, 1997, the National Wildlife Property Repository received 553 boxes of forfeited or abandoned items consisting of 117,000 individual pieces of wildlife parts or products. During this period, 271 educational kits, containing 5,706 items, were sent to various scientific and educational organizations. These items were shipped at no cost to the recipient.

Of the 450,000 wildlife items now in the Service's inventory of property that has been forfeited or abandoned to the United States, some 200,000 are surplus to the needs of scientific and educational programs and could legally be sold at auction. These potentially "salable" items do not include migratory birds, eagles, threatened or endangered species, species listed on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, or marine mammals -- all of which are protected from such commercialization. It has taken about 10 years for this stock of surplus wildlife items to accumulate. Approximately 10 percent of these items have been forfeited to the United States pursuant to a criminal or civil action related to a specific violation of Federal wildlife laws. The remaining 90 percent were voluntarily abandoned to the United States by the alleged defendant(s) to avoid involvement in a proposed forfeiture action.

We estimate that an auction of these backlogged, forfeited and abandoned items would generate over \$1 million in proceeds. There are, however, insufficient appropriated funds to pay the 14 percent auctioneer commission, or other expenses related to such an auction. Currently, the Service cannot pay these costs from auction proceeds. Both the Lacey Act and Endangered Species Act authorize sums received from the sale of forfeited property to be used to pay for rewards or for the cost of storage of wildlife pending disposition of civil or criminal proceedings. No wildlife statute addresses the use of proceeds from the sale of abandoned property, so these funds are submitted to the Treasury as miscellaneous receipts and are not available for program operations. The Fish and Wildlife Improvement Act of 1978 gives the Secretary of the Interior the authority to sell forfeited and abandoned items, but it is silent as to how the proceeds from the sales may be used.

If enacted, H.R. 2291 would accomplish two necessary functions. First, it would direct all proceeds from the sale of surplus wildlife property to the reward and incidental expense account, which is authorized by both the Lacey Act and the Endangered Species Act. Currently, only the proceeds from the sales of forfeited wildlife property are deposited in this account. H.R. 2291 would authorize proceeds from the sale of abandoned items to also be deposited in the reward and incidental expense account.

Second, H.R. 2291 would expand the uses of the Reward and Incidental Expense Account to include authority to pay costs associated with storage, shipping, and processing of fish, wildlife, plants, and other property that have been forfeited or abandoned to the United States. This account currently may be used only to

- (1) pay rewards to persons who furnish information that leads to an arrest, a criminal conviction, civil penalty assessment, or forfeiture of property for any violation of either the Lacey or Endangered Species Acts or regulations issued thereunder, and
- (2) cover the costs incurred by any person providing temporary care for any fish, wildlife, or plant pending the disposition of any criminal or civil proceeding alleging a violation of either Act with respect to that fish, wildlife, or plant. Authorized costs that could be paid from this account would be expanded to include:
  - (a) shipping of such items from one location to another;
  - (b) storage, inventory, and security of such items;

- (c) appraisal of such items;
- (d) sale or other disposal of such items, including auctioneer expenses;
- (e) payment of any valid lien against said property; and
- (f) processing and shipping of eagles and other migratory birds to Native Americans.

Another benefit of enacting H.R. 2291 would be the authority for the Service to use the proceeds from the sale of these items to pay for processing and shipping of eagles and other migratory birds to Native Americans. The Service recognizes its trust responsibility to Native Americans and the need to accommodate their religious beliefs, which include the use of eagles and other protected species for religious purposes. Over a thousand dead eagles are received annually by the National Eagle Repository in Denver, Colorado. Most have been either shot, electrocuted, died while being cared for by a rehabilitation facility, or hit by a vehicle. In 1996, the National Eagle Repository filled 1,320 requests from Native Americans for eagles (996), eagle feathers (82), and other raptors (242). These eagles are processed and shipped to Native Americans to be used for religious purposes. The Service supplies boxes for shipping and dry ice, and the birds are shipped at no cost to Native Americans.

Mr. Chairman, we believe this bill, if enacted, would allow us to operate more efficiently two important programs: distribution of wildlife property to scientific and educational institutions and the distribution of eagles to Native Americans for religious purposes.

### **Coastal Barrier Resources System, H.R. 3647**

Now I would like to discuss the Coastal Barrier bill on the agenda. H.R. 3647 would modify boundaries of units within the Coastal Barrier Resources System in Florida. The Department supports H.R. 3647. The Coastal Barrier Resources Act of 1982, which established the Coastal Barrier Resources System, was designed to limit federally subsidized development activities within undeveloped coastal barriers. It is important to note that the Act does not prohibit development. Landowners are still free to develop their property.

However, Congress determined that taxpayers should not subsidize development activities in these high-risk, damage-prone coastal areas. By restricting all new Federal expenditures and financial assistance in such areas, Congress sought to minimize the loss of human life, wasteful expenditure of Federal revenues, and damage to fish, wildlife, and other natural resources associated with coastal barriers.

Section 10 of the original Coastal Barrier Resources Act mandated a study of coastal barriers and required the Department of the Interior to provide Congress with recommended changes to the System. An extensive public review period was conducted from 1983 up to the completion of the Department's 1988 Report to Congress. This Report included final recommendations for additions and deletions to the System. Using this report and its maps, the Congress in 1990 enacted the Coastal Barrier Improvement Act, which both added and removed areas from the System.

H. R. 3647 would remove the 25-acre island of Pumpkin Key from the Coastal Barrier Resources System. Based on information available at the time, Pumpkin Key was mapped by the Service as an undeveloped coastal barrier, so designated in its 1988 Report to Congress, and included in the Coastal Barrier Resources System by Congress on that basis.

Subsequently, in late 1996 and early 1997, the owner of Pumpkin Key provided new information to the Service describing the level of development on Pumpkin Key, including a list of structures and

infrastructure and when they were built. This new information was sufficient for us to determine that the island met the requirements to be considered as "developed" at the time of passage of the Coastal Barrier Improvement Act in November 1990.

According to Departmental criteria, the first step in analyzing development status is to examine the number of structures in place at the time of inclusion in the System. The Service received evidence that three insurable structures on the Pumpkin Key were built by November 1990. Since there were not sufficient structures for the island to be considered as developed, the Service then examined the level of infrastructure present.

A full complement of infrastructure is defined to include water supply, wastewater disposal, electricity, and paved roads. The development information supplied by the representatives of Pumpkin Key on August 5, 1996, and February 14, 1997, clearly demonstrates a high level of infrastructure development prior to 1990. Signed, sworn affidavits and as-built engineering drawings attest to the presence of electricity, water, and wastewater disposal capacity for every building lot on the island, as well as paved golf cart paths. These paths, paved in 1984, provide the transportation infrastructure for the island, which has no bridge or ferry access and no automobiles.

This information, which was not available to the Service when it prepared the 1988 Report, nor to Congress when it included Pumpkin Key in the System in 1990, provided the basis for the Service's current finding that the island was developed prior to its inclusion in the System. The Service therefore supports modification of the boundary of Unit FL-35 to exclude Pumpkin Key, as proposed in H.R. 3647, as a valid technical correction of a mapping error.

This concludes my formal statement. I would be happy to answer any questions you may have.

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